

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

Please cancel claims 50, 52, 64, 65, 79 and 84 without prejudice.

SUPPORT FOR THE CLAIM AMENDMENTS

Support for the amendments to the claims can be found in the drawings as originally filed, for example, in FIG. 2, and in the specification as originally filed, for example, on page 9 lines 3-15 and page 11 lines 13-18. As such, no new matter has been introduced.

PRIORITY

The objection to the priority has been obviated by amendment and should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 48, 50-52, 55-62, 64, 65, 68-79, 81-84, and 96-122 under 35 U.S.C. §103(a) as being unpatentable over Bro (U.S. Pat. No. 5,722,418 in view of Kashkashian (U.S. Pat. No. 4,700,055) and Schulman et al. (U.S. Pat. No. 5,497,772: hereafter Schulman) has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

Bro concerns a method for mediating social and behavioral processes in medicine and business through an interactive telecommunications guidance system (title). Kashkashian concerns a multiple credit card system (title). Schulman concerns a glucose monitoring system (title).

In contrast, claim 48 of the present invention provides a blood glucose monitoring system for monitoring a blood glucose level and for providing health-related information. The system

generally comprises (a) a display device, (b) an audio speaker, (c) a processor, (d) at least one built-in memory, (e) at least one physiological data monitor and (f) an input device. The display device may include a display screen which displays the blood glucose level as measured. The processor may be configured to provide audio and visual signals to the audio speaker and display device respectively. The built-in memory may include read-only digital memory (ROM) or writeable digital memory (RAM), or both, having stored therein operation data and operation software routines executable by the processor for (i) controlling the blood glucose monitoring system; (ii) comparing the blood glucose level as measured with stored measurements; (iii) performing one or more further processing functions in response to the comparing; (iv) connecting the processor to a remotely located computer via a communication network in response to receiving a network address of the remotely located computer from a removable memory card attached to the system, wherein (a) the network address identifies the remotely located computer within the communication network and (b) the remotely located computer is located distant from the processor and (v) receiving the health-related information at the processor via the communication network from the remotely located computer. The physiological data monitor may be configured to (i) provide a measurement signal representative of a physiological parameter of a user and (ii) reside outside a first housing containing said processor. The electrically isolating interface device being not entirely disposed within any housing containing the processor. The input device may be in communication with the processor and configured to (i) receive an input from the user, (ii) enable the user to (1) make selections and (2) control one or more user functions of the blood glucose monitoring system and (iii) provide a control signal to the processor based upon the input, thereby to cause the health related information to be provided to the user

based upon the measurement signal representative of the blood glucose level and the control signal, the physiological parameter including the blood glucose level and the physiological data monitor including a blood glucose indicator. Claims 51, 62, 75 and 81 provide similar limitations. However, the claims include limitations that are not taught or suggested by the proposed combination for the reasons given below. Furthermore, Bro is not valid prior art.

Bro '418 is not prior art. Bro '418 was filed on September 30, 1994. In contrast, the present application has priority to U.S. Patent No. 5,678,571 filed May 23, 1994, which was before Bro '418 was filed. Therefore, Bro '418 is not prior art based on its filing date.

Bro '418 asserts to be a continuation of U.S. Patent No. 5,377,258 (Bro '258). However, Bro '418 actually appears to be a continuation-in-part of Bro '258. In particular, the Description of the Preferred Embodiment section of Bro '258 ends in column 16. In contrast, the same section of Bro '418 ends in column 62. Bro '418 contains 46 more columns than its parent so it cannot be a pure continuation. Furthermore, a comparison of the text between the patents shows that virtually every paragraph from the Summary of the Invention section onward in Bro '418 contains new material not found in Bro '258. Moreover, the rejections rely on the new material so Bro '258 is not valid prior art. As such, the presently claimed invention is fully patentable over the proposed combinations and the rejections should be withdrawn.

The following arguments are provided, assuming *arguendo* (for which Applicants' representative does not necessarily agree), that Bro '418 is prior art.

Claims 48, 51, 62, 75 and 81 are independently patentable over the cited references. Claim 48 provides (c) a processor and (d) at least one built-in memory having stored therein operation

data and operation software routines executable by the processor for ... (iv) connecting the processor to a remotely located computer via a communication network ... (b) the remotely located computer being located distant from the processor. Claims 51, 62, 75 and 81 provide similar limitations. In contrast, the Office Action asserts that a computer 16 of Bro is simultaneously similar to both the claimed processor and the claimed remotely located computer. Since the computer 16 of Bro cannot be remotely located from itself, the claims include limitations not taught or suggested by the proposed combination.

In particular, the Office Action rejects the claimed processor by citing column 17 lines 15-25 of Bro, which teach enhanced patient or employee interfacing with the computer 16. Therefore, the rejection maps the computer 16 of Bro to the claimed processor. The claimed remotely located computer is rejected by the Office Action citing column 17 lines 10-15 of Bro, which teach that patient responses are made to the computer 16. Therefore, the rejection also maps the computer 16 of Bro to the claimed remotely located computer. However, nothing in Bro or the Office Action explains how the computer 16 of Bro can be located distant from itself. The other references do not cure this deficiency. Hence, the proposed combination does not teach or suggest the remotely located computer being located distant from the processor, as presently claimed.

Claim 48 further provides (d) that operation data and operation software routines are also for ... (ii) comparing the blood glucose level as measured with stored measurements. Claims 51, 62, 75 and 81 provide similar limitations. The Office Action states that (i) column 14 lines 50-56 and (ii) column 18 lines 58-67 of Bro allegedly teaches a similar comparison. In contrast, the cited text of Bro is silent regarding any comparison of measured

data with stored measurements. Therefore, the proposed combination does not teach or suggest all of the claimed limitations.

In particular, column 14 lines 42-56 of Bro read:

The patient or employee database 12 in the preferred embodiment consists of a compact disc (CD) recording that is played back on a CD player that interfaces with the computer 16 as shown in FIG. 1. However, other database recording and playback units can also be used. By way of example but not of limitation, these units include but are not limited to hard disks or other random access memory devices or a tape cartridge that is played back to the computer by means of a tape cartridge player or an optical disc and optical disc playback unit. The patient, client or employee database includes for each patient or employee 50, the patient's, client's or employee's name, their calling schedule by week, day and time, each patient's or employee's personal identification number (PIN), and previous history of messages received and response profiles.

Column 18 lines 58-67 of Bro read:

The scale 38 prevents the patient 50 from becoming aware of their day-to-day weight fluctuations. This is consistent with new insights in behavior theory with respect to human motivation which allow an observer or instructor using the computer to review the patient's weight periodically through the use of the computer 16 which is at a remote location and can guide the patient 50 from time to time based upon the trend or average of their weight, and other devices such as glucose monitoring, blood pressure, heart rate, and cholesterol monitoring.

Nowhere in the above text, or in any other section does Bro appear to mention comparing a measured blood glucose level with stored measurements. The other references do not cure this deficiency. Therefore, the proposed combination does not teach or suggest comparing the blood glucose level as measured with stored measurements, as presently claimed.

Claim 48 further provides that (d) the operation data and operation software routines are also for ... (iii) performing one

or more further processing functions **in response to the comparing**. Claims 51, 62, 75 and 81 provide similar limitations. The Office Action states that column 14 lines 60-67 of Bro allegedly teach the further processing functions in response to the comparing. In contrast, the cited text of Bro is silent regarding any processing in response to comparing blood glucose levels as measured with stored measurements. Therefore, the proposed combination does not teach or suggest all of the claimed limitations.

In particular, Bro column 14 lines 57-67 read:

The patient, client or employee program 14 in the preferred embodiment, is also recorded and played back by a CD player or other recording and/or playback units, as described above for the patient, client or employee database 12, and is connected to the computer 16 and to the telecommunications network 24 as shown in FIG. 1. The patient or employee program 14 is especially designed to serve a plurality of specific patients or employees. The program 14 can include as many motivational and reinforcement messages as are necessary to help with a specific behavioral problem.

Nowhere in the above text, or in any other section does Bro appear to mention processing in response to comparing blood glucose level as measured with stored measurements. The other references do not cure these deficiencies. Therefore, the proposed combination does not teach or suggest performing one or more further processing functions in response to comparing blood glucose level as measured with stored measurements. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Regarding claims 98, 102, 106, 110 and 114, the interactive videodisk system 54 of Bro does not teach that the blood glucose monitoring system is configured for downloading particular information obtained from the user to a separate computer, as alleged in the rejection. Bro, Kashkashian and Schulman, individually and as a whole, are silent regarding a blood glucose monitoring system configured for downloading particular information obtained from the user to a separate computer. Therefore, the claims include limitations not taught or suggested by the proposed combination and the rejections should be withdrawn.

Regarding claims 97, 101, 105, 109 and 113, the database 12 of Bro is not a slot for accepting a flash memory card as alleged in the Office Action. Therefore, *prima facie* obviousness has not been established and the rejections should be withdrawn.

Regarding claims 99, 103, 107, 111 and 115, the cited text and the rest of Bro are be silent regarding software routines that trigger an alarm if the blood glucose level falls outside a predetermined range, as alleged in the Office Action. The other references do not cure this deficiency. Therefore, the proposed combination does not teach or suggest all of the claimed limitations and the rejections should be withdrawn.

Regarding claims 116-120, the reminder taught by Bro does not appear to teach any operation based on comparing the blood glucose level as measured with stored measurements, as alleged in

the Office Action. The other references do not cure this deficiency. Therefore, the proposed combination does not teach or suggest all of the claimed limitations and the rejections should be withdrawn.

Regarding claim 122, no arguments are present in the Office Action where the references allegedly teach that the physiological data monitor and the input device are in a second housing separate from the first housing containing the processor. As such, the rejection of claim 122 should be withdrawn.

Claims 55-61, 68-74, 76-78, 82, 83, 96-115 and 116-122 depend, either directly or indirectly, from independent claims 48, 51, 62, 75 or 81, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

COMPLETENESS THE OFFICE

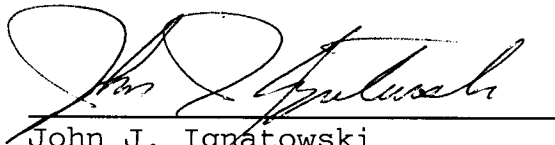
Aside from a notice of allowance, Applicants' representative respectfully requests any further action on the merits be presented as a non-final action. No arguments were presented for at least claim 122 as required by 37 CFR §1.104(b) and MPEP §706.07.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicants' representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

Respectfully submitted,

CHRISTOPHER P. MAIORANA, P.C.

A handwritten signature in black ink, appearing to read "John J. Ignatowski", is written over a horizontal line.

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c/o Health Hero Network

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